

SUFFOLK FARMS PACKING CO.

MARCH 19, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. MONTONA, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. Res. 489]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 489) providing for sending the bill, H. R. 8728, and accompanying papers to the Court of Claims, having considered the same, report favorably thereon without amendment and recommend that the resolution do pass.

PURPOSE

The purpose of House Resolution 489 is to refer the bill, H. R. 8728, for the relief of Suffolk Farms Packing Co., to the Court of Claims pursuant to sections 1492 and 2509 of title 28 of the United States Code with the direction that the matter be considered in accordance with the provisions of those sections and that the court report its findings to the House of Representatives so as to inform the Congress of the nature of its demand as a claim against the United States.

[H. R. 8728, 85th Cong., 1st sess.]

A BILL For the relief of the Suffolk Farms Packing Company

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Suffolk Farms Packing Company, of Chelsea, Massachusetts, the sum of \$119,962. Such sum shall be in full satisfaction of all claims of the said Suffolk Farms Packing Company against the United States Government for compensation for losses incurred by such company in connection with the shipment of agricultural commodities to the

country of Sweden pursuant to reputedly dependable, but actually inadequate and incomplete, information received from the United States Department of Agriculture.

STATEMENT

In May 1956, the Swedish Government refused to accept a shipment of Irish potatoes of the Suffolk Farms Packing Co., of Chelsea, Mass., because of the regulations concerning the entry of potatoes into Sweden. The evidence presented to the committee indicates that the Suffolk Farms Packing Co. made this shipment in reliance on information supplied by the Agricultural Research Service of the Department of Agriculture concerning the importing country's plant-quarantine restrictions. In this instance, the summary of Swedish regulations available prior to the time that the Suffolk Farms Packing Co. made the shipment was issued on February 14, 1950. From the information available to the committee, it appears that the company was not given notice of the regulations concerning ring rot. On the basis of the complex nature of the facts, regulations, and governmental activities involved, this committee has concluded that the matter should be referred to the Court of Claims under the provisions of sections 1492 and 2509 of title 28, United States Code. Accordingly, the committee recommends that House Resolution 489 be considered favorably.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., October 9, 1957.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR CONGRESSMAN CELLER: This is in reply to your request of July 18, 1957, for a report on H. R. 8728, for the relief of the Suffolk Farms Packing Co.

The Department opposes the enactment of H. R. 8728 and at the same time expresses regrets that Suffolk Farms Packing Co. sustained this loss. Our recommendation is based on the facts that:

1. The Department was not negligent in this matter. It cannot assume responsibility for maintaining complete, up-to-date information on the plant-quarantine import requirements of all foreign countries.

2. The Department has no evidence as to the actual amount of the alleged loss sustained by the shipper.

3. The Department accepts no liability with respect to the issuance of phytosanitary export certificates. Such certification must be based on available information regarding the importing country's plant-quarantine import restrictions, which is often incomplete. In the event such regulations indicate that a commodity is prohibited from the United States, exporters are advised to determine directly from the country concerned any special provisions that may be made to permit the shipment. That practice was followed in this instance.

The bill directs the Secretary of the Treasury to pay to Suffolk Farms Packing Co., of Chelsea, Mass., the sum of \$119,862, for losses

incurred in connection with the shipment of agricultural commodities to Sweden, pursuant to reputedly dependable, but actually inadequate and incomplete, information received from the United States Department of Agriculture.

The introduction of the bill resulted from refusal of the Swedish Government to accept a shipment of Irish potatoes made by the Suffolk Farms Packing Co., of Chelsea, Mass., in May 1956, because of infection of the disease, ring rot. The shipment had been certified by a regulatory official of the State of Maine, as apparently meeting Swedish plant-quarantine import requirements on the basis of our understanding of special provisions that had been made for the entry of the potatoes into Sweden.

The Agricultural Research Service, as a service to exporters, inspects and certifies domestic agricultural products offered for exportation, in accordance with its understanding of the importing countries' plant-quarantine restrictions. This service is performed under authority of section 102 of the Department of Agriculture Organic Act of 1944. Some countries will accept certification by State regulatory officials. For use in this connection, the Agricultural Research Service makes every effort to maintain up-to-date summaries of the plant-quarantine regulations of 127 foreign countries.

It is difficult, and often impossible, to issue these summaries promptly or to be certain that they are current. First, it is necessary to obtain copies of the regulations from the countries involved. These are usually in a foreign language and must be translated. After translation, they are summarized and the summary is sent to the appropriate official of the originating country for review. After it is returned, any suggestions or changes are incorporated and the summary is reproduced. It is only then that it can be made available to exporters as well as to Federal and State inspectors, who perform export certification. Final issuance of the summary frequently requires considerable time. Furthermore, despite all efforts to be advised promptly of any changes in the regulations made by various foreign countries, we can never be sure that new regulations have not been issued about which we have not been informed. For that reason, special care is taken to advise shippers that export certification can only be made on the basis of what we understand to be the current plant-quarantine import requirements of the importing country. To further emphasize this fact, the introductory page of each summary contains the following statement:

"The information contained in this circular is believed to be correct and complete up to the time of preparation, but it is not intended to be used independently of, nor as a substitute for, the original texts, and it is not to be interpreted as legally authoritative."

The difficulty of maintaining up-to-date information on this subject is well illustrated by recent changes in the Swedish regulations. The latest summary of those regulations available prior to the time Suffolk Farms Packing Co. made the shipment in question was issued on February 14, 1950. In October 1955, we happened to learn, through an unofficial source, that Sweden had apparently issued new regulations and, upon making inquiry of the agricultural attaché at the American Embassy in Stockholm, we were informed that new regulations had been issued August 16, 1955. A copy of the regulations was

received from the attaché in November 1955, and preparation of a summary was promptly initiated.

When the question of exporting potatoes to Sweden was raised in March 1956, those in interest were informed that, according to our understanding of the Swedish restrictions, potatoes from the United States were prohibited. However, a letter of March 7, 1956, from the American Embassy in Stockholm indicated that the Agricultural Marketing Board of Sweden had granted licenses for the importation of Maine potatoes on a trial basis. There was enclosed a sample copy of the type of phytosanitary certificate Sweden would require for the potatoes. Point 5 of the certificate made mention of inspection to determine freedom from potato wart, potato-root eelworm, potato moth, Colorado potato beetle, and Japanese beetle. It also required certification "that the Colorado potato beetle and Japanese beetle have not occurred at the place of cultivation, nor within a distance of 2 kilometers of that place within the last 2 years." No mention was made of concern about ring rot in this or any other communication received from Sweden during the time the question was under consideration.

It is a regular practice, in cases involving shipments to countries whose import requirements are not clear, to warn shippers of possible difficulties and suggest that, in order to be safe, they determine the exact requirements from the country of destination. That practice was followed in this instance. Suffolk Farms Packing Co. was informed that it would not be possible to certify to point 5 of the Swedish sample certificate, and it was suggested that they get in touch with Swedish authorities to determine the conditions under which United States potatoes might be approved for importation. On March 29, 1956, a telegram was received from the Swedish Plant Protection Institute stating that the requirements listed in point 5 of the sample certificate would be waived provided the bags containing the potatoes were treated with rotenone. This information was passed on to the Maine inspector who had been asked to perform the certification, and the potatoes were certified on that basis. It was later learned that the shipment had been refused entry into Sweden because of the presence of ring rot. This action apparently was taken on the basis of the revision of the Swedish regulations referred to above, which were in process of being summarized for distribution at that time. The new regulations listed ring rot among many other plant diseases, and insect pests as one of the pests which are considered especially dangerous to Swedish agriculture.

In summation, the certificate was issued in accordance with the sample certificate received from Sweden, in which no specific mention was made regarding the necessity for freedom from ring rot. Had that requirement been known, no certificate would have been issued, as it is common knowledge that the disease has been widespread in the United States, including Maine, for a number of years. Plant pathologists throughout the world are undoubtedly aware of its occurrence in this country, as this information has been generally published. The fact that representatives of Suffolk Farms Packing Co. were in contact with Swedish phytosanitary officials to determine the conditions under which United States potatoes would be permitted entry, and no mention of ring rot was made in communications re-

ceived from those officials, although other requirements were waived, further indicated that Sweden had agreed to accept the shipment subject to the conditions under which it was certified.

It is sincerely regretted that the Suffolk Farms Packing Co. suffered a loss on the shipment of the Irish potatoes, but we do not feel that either this Department or the Department of Agriculture of the State of Maine was negligent in the matter.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

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control (and the other) although other treatment was given. Further material that was sent to me for the purpose of subject to the conditions under which it was received.

It is also to be noted that the subject of the study was a person who was in the hospital at the time of the study and that the treatment of the patient was not given in the hospital.

The reason of the subject's death is not known to the author of this report.

Very truly yours,

John D. Moore

Medical Director

